

No. 1425

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**United States Circuit Court of Appeals**  
FOR THE NINTH CIRCUIT.

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PUGET SOUND NAVIGATION COMPANY (a Corporation),

Plaintiff in Error,

vs.

MARY R. LAVENDER, CHARLES STANLEY and  
SAMUEL BARLOW,

Defendants in Error.

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**SUPPLEMENTAL TRANSCRIPT OF RECORD.**

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Upon Writ of Error to the United States Circuit  
Court for the Western District of Wash-  
ington, Northern Division.

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**FILED**

NOV 27 1907



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At a stated term, to wit, the October term, A. D. 1907,  
of the United States Circuit Court of Appeals  
for the Ninth Circuit, held at the courtroom, in  
the City and County of San Francisco, on Mon-  
day, the fourth day of November, in the year of  
our Lord one thousand nine hundred and seven.  
Present: The Honorable WILLIAM B. GIL-  
BERT, Circuit Judge; Honorable ERSKINE  
M. ROSS, Circuit Judge; Honorable WILL-  
IAM W. MORROW, Circuit Judge.

No. 1425.

PUGET SOUND NAVIGATION COMPANY (a  
Corporation),

Plaintiff in Error,

vs.

MARY R. LAVENDER et al.,

Defendants in Error.

**Order Granting Petition for Rehearing, etc. (Certi-  
fied Copy).**

It is ordered, that the petition for a rehearing of  
the above-entitled cause, filed October 24, 1907, be,  
and hereby is, granted with leave to the defendants  
in error to file a supplemental transcript of record  
showing the removal papers.

I hereby certify that the foregoing is a full, true and correct copy of an original order made and entered in the within-entitled cause.

Attest my hand and the seal of said United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, this 12th day of November, A. D. 1907.

[Seal]

F. D. MONCKTON,  
Clerk.



*In the Circuit Court of the United States for the  
Western District of Washington, Northern  
Division.*

MARY R. LAVENDER,

Plaintiff and Defendant in Error,

vs.

PUGET SOUND NAVIGATION CO.,

Defendant and Plaintiff in Error,

CHARLES STANLEY and SAMUEL BARLO,

Defendants and Defendants in Error.

**Names and Addresses of Counsel.**

BYERS & BYERS, Attorneys for Mary R. Lavender, Plaintiff and Defendant in Error, Rooms 507-9, Colman Building, Seattle, Washington.

IRA BRONSON and D. B. TREFETHEN, Attorneys for Puget Sound Navigation Co., Defendant and Plaintiff in Error, No. 614 Colman Bldg., Seattle, Wn.

IRA BRONSON and D. B. TREFETHEN, Attorneys for Charles Stanley and Samuel Barlo, Room 614 Colman Bldg., Seattle Washington.

No. 46869.

MARY R. LAVENDER,

Plaintiff,

vs.

THE PUGET SOUND NAVIGATION COM-  
PANY et al.,

Defendants.

**Removal from the Superior Court of the State of  
Washington, for the County of King, to the  
United States Circuit Court, Ninth Circuit,  
Western District of Washington, Northern  
Division**

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*In the Superior Court of the State of Washington,  
in and for the County of King.*

No. —.

MARY R. LAVENDER,

Plaintiff,

vs.

THE PUGET SOUND NAVIGATION COM-  
PANY (a Corporation), CHARLES STAN-  
LEY and SAMUEL BARLO,

Defendants.

**Petition for Removal of Suit from State Court to  
Circuit Court, etc.**

Comes now The Puget Sound Navigation Company, a Corporation, the petitioner herein, and respectfully shows to the above-entitled Court that it is one of the defendants in this suit which is of a civil nature, and that the matter and amount in dispute in this cause exceeds the sum of value of \$2,000.00, exclusive of interest and costs.

That the controversy herein is between citizens of different states; that the plaintiff, Mary R. Lavender, was at the time of the commencement of this suit, and still is, a citizen of the State of Washington, residing at Seattle, in said State, and that the petitioner herein, The Puget Sound Navigation Company, a corporation, was at the time of the commencement of this suit, and still is, a citizen of the State of Oregon, and of no other State, having its principal place of business in the city of Portland, in said State; that the petitioner herein desires to remove this suit before the trial thereof into the next Circuit Court of the United States, to be held in the Western District of Washington, Northern Division; that in the above-entitled cause there is named in the caption thereof two other defendants, to wit, Charles Stanley and Samuel Barlo, but this petitioner avers

and states the fact to be that neither of said parties is a necessary nor a proper defendant in this said cause; that each of said parties was made defendant in this said cause with the sole and single purpose of preventing a removal by petitioner of this cause to the Circuit Court of the United States for the Western District of Washington, Northern Division, and therefore unlawfully preventing petitioner of a right conferred upon it by the Constitution and laws of the United States; that this petitioner has no knowledge or information sufficient to form a belief as to whether or not said Charles Stanley and Samuel Barlo were at the time of the commencement of this action, or still are, residents and citizens of the State of Washington; that at the time of said accident set forth in plaintiff's complaint, and now, The Puget Sound Navigation Company, a corporation, was and is perfectly solvent; that if any liability exists by reason of the injury or accident sustained by the deceased, or by the plaintiff in the above-entitled cause, the responsibility for the same rests in law and in fact upon your petitioner; that the controversy in the above-entitled cause is a matter which can be fully determined between the plaintiff above named and this petitioner, and is a controversy wholly between the plaintiff above named and this petitioner.

And the petitioner herein offers herewith good and sufficient surety for its entering in the Circuit Court

of the United States for the Western District of Washington, Northern Division, on the first day of its next session a copy of the record in this suit, and for paying all costs that may be awarded by the said Circuit Court of the United States if said Court shall hold that this suit was wrongfully and improperly removed thereto.

Wherefore petitioner respectfully prays that the said surety and bond may be accepted; that this said suit may be removed into the next Circuit Court of the United States, to be held in the Western District of Washington, Northern Division, pursuant to the Statutes of the United States in such case made and provided, and that no further proceedings may be had herein in this said suit.

IRA BRONSON and  
D. B. TREFETHEN,  
Attorneys for Petitioners.

State of Washington,  
County of King.—ss.

Walter Oakes, being first duly sworn, on oath deposes and says as follows, to wit: That he is treasurer of The Puget Sound Navigation Company, a corporation, above named; that the facts set forth in the foregoing petition are true to his own knowledge except as to the matters therein stated to be alleged

upon information and belief, and as to those matters he believes those said facts to be true.

WALTER OAKES.

Subscribed and sworn to before me this 17th day of April, 1905.

D. B. TREFETHEN,

Notary Public in and for the State of Washington,  
Residing at Seattle.

Due service of a copy hereof accepted this 17th day of April, 1905.

BYERS & BYERS,

Attys. for Pltf.

Assigned to Department No. Two.

A. E. G.

B. J. T.

Judge.

Filed Apr. 17, 1905. Otto A. Case, Clerk.



*In the Superior Court of the State of Washington,  
in and for the County of King.*

No. —.

MARY R. LAVENDAR,

Plaintiff,

vs.

PUGET SOUND NAVIGATION COMPANY OF  
OREGON (a Corporation), CHARLES  
STANLEY and SAMUEL BARLO,

Defendants.

**Bond on Removal.**

Know all men by these presents, that we, The Puget Sound Navigation Company, having its principal place of business in the city of Portland, Oregon, as principal, and Walter Oakes and Joshua Green as sureties, are holden and stand firmly bound unto Mary R. Lavendar in the penal sum of one thousand dollars for the payment whereof well and truly to be made unto the said Mary R. Lavendar, her heirs, successors and assigns, we bind ourselves, our heirs, representatives, and assigns jointly and firmly by these presents.

Upon condition, nevertheless, that whereas the said Puget Sound Navigation Company has filed its petition in the Superior Court for King County,

State of Washington, for the removal of a certain cause therein pending, wherein the said Mary R. Lavendar is plaintiff and the said The Puget Sound Navigation Company, Charles Stanley and Samuel Barlo, are defendants, to the Circuit Court of the United States in and for the Western District of Washington, Northern Division.

Now, if the said The Puget Sound Navigation Company shall enter in the said Circuit Court of the United States on the first day of its next session a copy of the record in said suit, and shall well and truly pay all costs that may be awarded by said Circuit Court of the United States, if said Court shall hold that said suit was wrongfully or improperly removed thereto, then this obligation shall be void; otherwise it shall remain in full force and virtue.

In witness whereof, we, the said The Puget Sound Navigation Company and Walter Oakes and Joshua Green, have hereunto set our hands and seals this 17th day of April, 1905.

THE PUGET SOUND NAV. CO.

By WALTER OAKES,

Treas.

[Seal] WALTER OAKES,

[Seal] JOSHUA GREEN.



*In the Superior Court of the State of Washington,  
in and for the County of King.*

No. —.

MARY R. LAVENDAR,

Plaintiff,

vs.

PUGET SOUND NAVIGATION COMPANY  
OF OREGON (a Corporation), CHARLES  
STANLEY and SAMUEL BARLO,

Defendants.

State of Washington,  
County of King,—ss.

Walter Oakes and Joshua Green makes oath each for himself, and not one for the other, and says that he resides in Seattle, King County, Washington; that he is a freeholder therein and is worth the sum of two thousand dollars over and above all property exempt from sale on above execution.

WALTER OAKES.

JOSHUA GREEN.

Subscribed and sworn to before me this 17th day of April, 1905.

D. B. TREFETHEN,

Notary Public in and for the State of Washington,  
Residing at Seattle.

Approved in open court this 17th day of April,  
1905.

Due service of a copy hereof accepted this 17th day of April, 1905.

BYERS & BYERS,

Atty. for Pltf.

Filed Apr. 17, 1905. Otto A. Case, Clerk.

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*In the Superior Court of the State of Washington,  
in and for the County of King.*

No. —.

MARY R. LAVENDAR,

Plaintiff,

vs.

PUGET SOUND NAVIGATION COMPANY  
OF OREGON (a Corporation), CHARLES  
STANLEY and SAMUEL BARLO,

Defendants.

**Order of Removal.**

The defendant herein having, within the time provided by law, filed his petition for removal of this cause to the Circuit Court of the United States for the Western District of Washington, Northern Division, and having at the same time offered his bond in the sum of one thousand dollars, with Walter Oakes and Joshua Green, good and sufficient sureties; pursuant to statute, and conditioned according to law:

Now, therefore, this Court does hereby accept and approve said bond and accept said petition, and does order that this cause be removed for trial to the next Circuit Court of the United States for the Western District of Washington, Northern Division, pursuant to the statute of the United States, and that all other proceedings of this court be stayed.

Done in open court this 26th day of April, 1905.

BOYD J. TALLMAN,  
Judge.

O. K. as to form.

BYERS.

Filed Apr. 26, 1905. Otto A. Case, Clerk.

**Clerk's Certificate to Transcript of Record on Removal.**

State of Washington,  
County of King,—ss.

I, Otto A. Case, County Clerk of King County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of King, do hereby certify that the foregoing is a full, true and correct transcript of the entire files and record in cause No. 46,869, Mary R. Lavender vs. The Puget Sound Navigation Company et al., as the same appear on file and of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 1st day of May, A. D. 1905.

[Seal]

OTTO A. CASE,

Clerk.

By Maurice Thompson,

Deputy Clerk.

[Endorsed]: 1296. In the United States Circuit Court, for the Western District of Washington. Mary R. Lavender vs. Puget Sound Nav. Co. et al. On Removal from Superior Court, King County. Filed in the U. S. Circuit Court, Western Dist. of Washington. May 1, 1905. A. Reeves Ayres, Clerk. H. M. Walthew, Dep.

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*In the Circuit Court of the United States for the Western District of Washington, Northern Division.*

No. 1296.

MARY R. LAVENDER,

Plaintiff and Defendant in Error,

vs.

PUGET SOUND NAVIGATION CO.,

Defendant and Plaintiff in Error,

CHARLES STANLEY and SAMUEL BARLO,

Defendants and Defendants in Error.

**Clerk's Certificate to Supplemental Transcript of  
Record.**

United States of America,  
Western District of Washington,—ss.

I, A. Reeves Ayres, Clerk of the Circuit Court of the United States for the Western District of Washington, do hereby certify that the petition for removal, bond on removal and order of removal here-to attached, are true and correct copies of the original petition for removal, bond on removal and order of removal, now on file and of record in my office at Seattle, in said district, in the above-entitled action, and that the date of filing of the same in my office was May 1st, 1905.

That I now transmit this supplemental record to the Circuit Court of Appeals for the Ninth Circuit, at the request of Byers and Byers, attorneys for plaintiff and defendant in error, there to be considered and inspected together with the records on appeal in this cause heretofore prepared, certified and forwarded to said Circuit Court of Appeals, to wit, on the 17th day of January, 1907.

I further certify that the cost of preparing this supplemental record on appeal is the sum of five and 20/100 (\$5.20) dollars, and that said sum has been

paid to me by Byers and Byers, attorneys for plaintiff and defendant in error.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court, this 9th day of November, 1907.

[Seal]

A. REEVES AYRES,  
Clerk.

By R. M. Hopkins,  
Deputy Clerk.

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[Endorsed]: No. 1425. United States Circuit Court of Appeals for the Ninth Circuit. Puget Sound Navigation Company (a Corporation), Plaintiff in Error, vs. Mary R. Lavender, Charles Stanley, and Samuel Barlow, Defendants in Error. Supplemental Transcript of Record. Upon Writ of Error to the United States Circuit Court for the Western District of Washington, Northern Division. Filed November 12, 1907.

F. D. MONCKTON,  
Clerk.